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11 *Attorney for Petitioner Bryan Michael Fergason

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Bryan Michael Fergason,

15 Petitioner,

16 v.

17 Calvin Johnson, et al.,

18 Respondents.

Case No. 2:19-cv-00946-GMN-BNW

**Unopposed motion for extension of
time in which to file an opposition
to the State's motion to dismiss**

(Second request)

19 Bryan Fergason respectfully moves this Court for an extension of time of forty-
20 five (45) days, from June 28, 2021, to and including August 12, 2021, in which to file
21 an opposition to the State's motion to dismiss.
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ARGUMENT

The State has filed a motion to dismiss Mr. Fergason's second amended petition. ECF No. 42. The opposition to the motion to dismiss is currently due on June 28, 2021.

Counsel respectfully suggests an extension remains necessary to properly prepare the opposition. As the previous extension motion explains, the State's motion to dismiss primarily raises arguments about exhaustion, along with a cognizability challenge to the Fourth Amendment claim pled in Ground One of the second amended petition. Given the complicated nature of the state court post-conviction proceedings, as well as the complicated nature of the state court litigation involving the Fourth Amendment issue, additional time remains necessary to fully research and prepare Mr. Fergason's counterarguments. For example, much of the litigation involving the Fourth Amendment issue took place in a separate but related state court proceeding. Mr. Fergason's response regarding the Fourth Amendment claim requires counsel to continue reviewing additional records in his co-defendant's case (in the instant case as well as in the factually related case) and may require the preparation of additional exhibits for filing along with the opposition.

Counsel has had many additional professional obligations in the past couple months, including, among others, a reply brief filed on May 14, 2021, in *Patterson v. Hutchings*, Case No. 20-15635 (9th Cir.); an application for a certificate of appealability filed on May 17, 2021, in *Carley v. Nevens*, Case No. 21-15157 (9th Cir.); motions for reconsideration filed on May 19, 2021, in *Olsen v. Baker*, Case Nos. 20-16755, 20-72428 (9th Cir.); an opening memorandum in support of an appeal from a detention decision filed on June 7, 2021, along with a reply memorandum filed on June 24, 2021, in *United States v. DeGrave*, Case No. 21-3030 (D.C. Cir.); an evidentiary hearing conducted on June 11, 2021, in *Bradford v. Gittere*, Case No. 2:13-cv-01784-RFB-

1 EJY (D. Nev.); and an opposition to a motion to dismiss filed on June 28, 2021, in
2 *Rosales v. Neven*, Case No. 3:16-cv-00003-RCJ-WGC (D. Nev.).

3 Counsel has many additional professional obligations in the next two months,
4 including, among others, a motion to stay due on July 2, 2021, in *Bynoe v. Helling*,
5 Case No. 3:07-cv-00009-LRH-CLB (D. Nev.); a petition for rehearing due on July 6,
6 2021, in *Cortinas v. Gentry*, Case No. 20-16227 (9th Cir.); an opening brief due on
7 July 7, 2021, in *Slaughter v. Daniels*, Case No. 82602 (Nev. Sup. Ct.); an opposition
8 to a motion to dismiss due on July 12, 2021, in *Hobson v. Hutchings*, Case No. 2:20-
9 cv-00503-KJD-NJK (D. Nev.); a second amended petition due on July 14, 2021, in
10 *Thomas v. Williams*, Case No. 2:18-cv-00020-GMN-PAL (D. Nev.); a second amended
11 petition due on July 16, 2021, in *Palmer v. Gittere*, Case No. 3:18-cv-00245-HDM-CLB
12 (D. Nev.); an amended petition due on July 19, 2021, in *Carroll v. Dzurenda*, Case
13 No. 2:20-cv-01691-GMN-NJK (D. Nev.); an opposition to a motion to dismiss due on
14 July 26, 2021, in *Crawford v. Howell*, Case No. 2:19-cv-01574-RFB-BNW (D. Nev.);
15 and a second amended petition due on August 2, 2021, in *Patterson v. Williams*, Case
16 No. 2:20-cv-01267-GMN-NJK (D. Nev.).

17 On June 25, 2021, counsel contacted Deputy Attorney General Sheryl Serreze
18 and informed her of this extension request. As a matter of professional courtesy, Ms.
19 Serreze had no objection to the request. Ms. Serreze's lack of objection shouldn't be
20 considered a waiver of any procedural defenses or statute of limitations challenges or
21 construed as agreeing with the accuracy of the representations in this motion.

22 In sum, counsel requests an additional forty-five (45) days, up to and including
23 August 12, 2021, in which to file the opposition. This is counsel's second request for
24 an extension of time to file the opposition. This motion isn't filed for the purposes of
25 delay, but in the interests of justice, as well as in Mr. Ferguson's interest. Counsel
26 respectfully asks the Court to grant the requested extension.

1 Dated June 28, 2021.


2 Respectfully submitted,

3 Rene L. Valladares
4 Federal Public Defender

5 /s/ Jeremy C. Baron
6 Jeremy C. Baron
7 Assistant Federal Public Defender

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10 **IT IS SO ORDERED.**

11 Dated this 29 day of June, 2021.

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14 Gloria M. Navarro, District Judge
15 UNITED STATES DISTRICT COURT
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